

BILL LOCKYER, Attorney General
of the State of California
VIVIEN H. HARA
Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
Senior Legal Analyst
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5579
Facsimile: (415) 703-5480

Legal Representatives for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN THOMAS CARDOZA
1732 Moranda Drive #1
Sunnyvale CA 94087

Physical Therapist Assistant License No.
AT 3120

Respondent.

Case No. 1D 2002 63216

OAH No. N2004030496

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by
Catherine E. Santillan, Senior Legal Analyst.

2. Respondent John Thomas Cardoza (Respondent) is represented in this
proceeding by attorney Rey L. Ochoa, whose address is 142-C Main Street, P.O. Box 520,
Seal Beach California 90740.

///

3. On or about September 10, 1993, the Physical Therapy Board of California issued Physical Therapist Assistant License No. AT 3120 to John Thomas Cardoza (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D 2002 63216 and will expire on February 28, 2005, unless renewed.

JURISDICTION

4. Accusation No. 1D 2002 63216 was filed before the Physical Therapy Board of California (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 17, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1D 63216 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D 63216. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

MITIGATING FACTOR

8. On March 17, 2003, Respondent successfully completed court-ordered Deferred Entry of Judgment pursuant to Penal Code section 1000.

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 1D 2002 63216.

4 10. Respondent agrees that his Physical Therapist Assistant License is subject
5 to discipline and he agrees to be bound by the Physical Therapy Board of California (Board) 's
6 imposition of discipline as set forth in the Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Physical Therapy Board
9 of California. Respondent understands and agrees that counsel for Complainant and the staff of
10 the Physical Therapy Board of California may communicate directly with the Board regarding
11 this stipulation and settlement, without notice to or participation by Respondent or his counsel.
12 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
13 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
14 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
15 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
16 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
17 further action by having considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated
19 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
20 force and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board may, without further notice or formal proceeding, issue and enter the
23 following Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physical Therapist Assistant License No. AT
26 3120 issued to Respondent John Thomas Cardoza (Respondent) is revoked. However, the
27 revocation is stayed and Respondent is placed on probation for three (3) years on the following
28 terms and conditions:

1 1. PROBATION PERIOD Respondent is placed on probation for a
2 minimum of three years or completion of the Diversion Program, whichever is longer. The
3 Diversion Program will determine when respondent's participation in the program is no longer
4 necessary.

5 2. RESTRICTION OF PRACTICE - ADMINISTRATION OR
6 POSSESSION OF CONTROLLED SUBSTANCES Respondent shall not administer or possess
7 any controlled substances as defined in the California Uniform Controlled Substances Act. This
8 prohibition does not apply to medications lawfully prescribed to respondent for a bona fide
9 illness or condition by a practitioner licensed to prescribe such medications.

10 3. PROHIBITION OF POSSESSION OR USE OF CONTROLLED
11 SUBSTANCES Respondent shall abstain completely from the personal use or possession of
12 controlled substances as defined in the California Uniform Controlled Substances Act, dangerous
13 drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a
14 prescription. This prohibition does not apply to medications lawfully prescribed to respondent
15 for a bona fide illness or condition by a practitioner licensed to prescribe such medications.

16 4. PROHIBITION OF THE USE OF ALCOHOL Respondent shall abstain
17 completely from the use of alcoholic beverages.

18 5. BIOLOGICAL FLUID TESTING Respondent shall immediately submit
19 to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.

20 6. DIVERSION PROGRAM Within 30 days from the effective date of this
21 decision, respondent shall and enroll in the Board's Diversion Program until the Board
22 determines that participation in the diversion program is no longer necessary. Respondent is
23 required to provide proof of attendance in the Veteran's Administration (VA) substance abuse
24 program from the effective date of the decision until the date he enrolls in the Board's Diversion
25 Program. Failure to comply with requirements of the Diversion Program, terminating the
26 program without permission or being expelled for cause shall constitute a violation of probation
27 by respondent.

28 ///

1 7. PROBATION MONITORING COSTS All costs incurred by the Board
2 for probation monitoring during the entire period of probation shall be reimbursed by respondent.
3 Costs will not exceed \$150.00 (one hundred fifty dollars) per month. Respondent will be billed
4 at least quarterly. Failure to make the ordered reimbursement within 60 days of the billing shall
5 constitute a violation of the probation order. In addition to the filing of an Accusation or the
6 issuance of an administrative citation, the filing of criminal charges shall be sought when
7 appropriate.

8 8. COST RECOVERY Actual costs of prosecution in the case are
9 \$4,241.25. The Board agrees to accept \$1,500.00 (one thousand five hundred dollars) in cost
10 recovery payable in monthly payments of \$125.00, which shall be paid in full within one year
11 from the effective date of the decision. Failure to make any payment in a timely manner will
12 cause the actual costs of \$4,241.25 to be due and payable, unless delay in payment is approved in
13 advance by the Board. Failure to make any payment in a timely manner may constitute a
14 violation of the probation order.

15 9. OBEY ALL LAWS Respondent shall obey all federal, state and local
16 laws, and statutes and regulations governing the practice of physical therapy in California.

17 10. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be
18 in compliance with any valid order of a court. Being found in contempt of any court may
19 constitute a violation of probation.

20 11. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF
21 RESTITUTION Respondent must not violate any terms and conditions of criminal probation
22 and must be in compliance with any restitution ordered.

23 12. QUARTERLY REPORTS Respondent shall submit quarterly
24 declarations under penalty of perjury on forms provided by the Board, stating whether there has
25 been compliance with all the conditions of probation.

26 13. PROBATION MONITORING PROGRAM COMPLIANCE Respondent
27 shall comply with the Board's probation monitoring program.

28 ///

1 14. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
2 shall appear in person for interviews with the Board, or its designee, upon request at various
3 intervals and with reasonable notice.

4 15. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The
5 respondent shall notify all present or future employers of the reason for and the terms and
6 conditions of the probation by providing a copy of the Accusation and the decision and order
7 (stipulated settlement) to the employer. The respondent shall obtain written confirmation from
8 the employer that the documents were received. If the respondent changes employment or
9 obtains additional employment, the respondent shall provide the above notification to the
10 employer and submit written employer confirmation to the Board within 10 days. The
11 notification(s) shall include the name, address and phone number of the employer, and, if
12 different, the name, address and phone number of the work location.

13 ///

14 16. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The
15 respondent shall notify the Board, in writing, of any and all changes of name or address within
16 ten (10) days.

17 17. RESTRICTION OF PRACTICE - TEMPORARY SERVICES
18 AGENCIES Respondent may only practice or perform physical therapy assistant duties in a
19 supervised structured environment. If respondent accepts employment through a temporary
20 services agency or registry, he is limited to working for a maximum of two agencies at the same
21 time period, and shall provide the agency or registry with a copy of the decision and order in this
22 case. The respondent shall obtain written confirmation from the agency or registry that the
23 decision and order were received. If the respondent changes agencies or registries, the
24 respondent shall provide the above notification to the agency and submit written confirmation to
25 the Board within 10 days. The notification(s) shall include the name, address and phone number
26 of the agency or registry, and, if different, the name, address and phone number of the work
27 location.

28 ///

1 18. PROHIBITED USE OF ALIASES Respondent may not use aliases and
2 shall be prohibited from using any name which is not his legally-recognized name or based upon
3 a legal change of name.

4 19. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent
5 works less than 192 hours in a period of three months, those months shall not be counted toward
6 satisfaction of the probationary period. The respondent shall notify the Board if him works less
7 than 192 hours in a three month period.

8 20. TOLLING OF PROBATION The period of probation shall run only
9 during the time respondent is practicing within the jurisdiction of California. If, during
10 probation, respondent does not practice within the jurisdiction of California, respondent is
11 required to immediately notify the probation monitor in writing of the date that respondent's
12 practice is out of state, and the date of return, if any. Practice by the respondent in California
13 prior to notification to the Board of the respondent's return will not be credited toward
14 completion of probation. Any order for payment of cost recovery shall remain in effect whether
15 or not probation is tolled.

16 21. VIOLATION OF PROBATION If respondent violates probation in any
17 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
18 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
19 revoke probation is filed against respondent during probation, the Board shall have continuing
20 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
21 is final.

22 22. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
23 OTHER REASONS Following the effective date of this probation, if respondent ceases
24 practicing physical therapy due to retirement, health or other reasons, respondent may request to
25 surrender his license to the Board. The Board reserves the right to evaluate the respondent's
26 request and to exercise its discretion whether to grant the request or to take any other action
27 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
28 tendered license, the terms and conditions of probation shall be tolled until such time as the

1 license is no longer renewable, the respondent makes application for the renewal of the tendered
2 license or makes application for a new license.

3 23. COMPLETION OF PROBATION Upon successful completion of
4 probation, respondent's license or approval shall be fully restored.

5 24. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE
6 ON PROBATION It is not contrary to the public interest for the respondent to practice/perform
7 physical therapy assistant duties under the probationary conditions specified in the disciplinary
8 order.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and
11 have fully discussed it with my attorney, Rey L. Ochoa. I understand the stipulation and the
12 effect it will have on my Physical Therapist Assistant License. I enter into this Stipulated
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
14 bound by the Decision and Order of the Physical Therapy Board of California.

15 DATED: June 10, 2004.

16
17 Original Signed By:
18 JOHN THOMAS CARDOZA
19 Respondent

20 I have read and fully discussed with Respondent John Thomas Cardoza the terms
21 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
22 Order. I approve its form and content.

23 DATED: June 10, 2004.

24
25 Original Signed By:
26 REY L. OCHOA
27 Attorney for Respondent

28 ///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: June 11, 2004.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
CATHERINE E. SANTILLAN
Senior Legal Analyst

Legal Representative for Complainant

DOJ Matter ID: SF2003AD0768
Cardoza, J. Stimulated Settlement.wpd

Exhibit A

Accusation No. 1D 2002 63216

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN THOMAS CARDOZA
1732 Moranda Drive #1
Sunnyvale CA 94087

Physical Therapist Assistant License No. AT
3120

Respondent.

Case No. 1D 2002 63216

OAH No. N2004030496

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 5, 2004.

It is so ORDERED July 6, 2004.

Original Signed By: Donald Chu, PhD, P.T., President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS